

COUNTY OF YORK

MEMORANDUM

DATE: June 27, 2003 (BOS Mtg. 7/15/03)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application No. UP-618-03, ALLTEL Communications, Inc.

ISSUE

This application requests a Special Use Permit, pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance to authorize a 150-foot freestanding monopole communications tower with associated ground mounted equipment within a leased area on a portion of the property of Clinton C. and Nancy H. Gardner (behind existing Peninsula Hardwood Mulch business). The subject parcel is located at 715 Lakeside Drive (Route 620) and is further identified as Assessor's Parcel No. 30-62. Access to the facility will be via an ingress/egress easement coinciding with the existing driveway servicing the mulch/landscape business.

DESCRIPTION

- Property Owner: Clinton C. and Nancy H. Gardner
- Location: 715 Lakeside Drive (Route 620)
- Area: Approximately 9,100 sq. ft. of a 49.0 acre parcel
- Frontage: Approximately 730 feet on Lakeside Drive
- Utilities: Public water and sewer
- Topography: Flat
- 2015 Land Use Map Designation: Medium Density Residential
- Zoning Classification: RR – Rural Residential
RC – Resource Conservation
EMA – Environmental Management Area Overlay
ASM – Airport Safety Management Overlay
- Existing Development: Mulch and Landscape Contractor Business

Surrounding Development:

North: Single family residential (Jacobs Springs) and Multi-family residential (Grafton Station apartments)

East: Single family residential (Winders Pond)

South: Single family residential (Lakeside Forest, Prospect Park)

West: Single family attached residential (York Crossing townhomes)

- Proposed Development: 150-foot freestanding monopole communications tower with associated ground-mounted equipment

CONSIDERATIONS/CONCLUSIONS

1. The proposed tower facility, to be contained within a 9110-square foot lease area, consists of a 150-foot monopole with a 190-square foot equipment shelter. The facility is to be surrounded by an 8-foot high chain link fence and evergreen screening. The proposed tower facility is to be located approximately 1700 feet north of Lakeside Drive and approximately 50 feet east of the common property line with the York Crossing development. The closest dwelling (York Crossing townhouse) is located approximately 250 feet from the tower base. The majority of the parcel is clear of vegetation, with the exception of a narrow wooded area parallel to the southwestern property border. The applicant is proposing to locate the tower adjacent to this wooded area. (Copies of photo simulations of the proposed tower provided by the applicant from the view of surrounding residential developments are attached.)

The current use of the property is a mulch and landscape contractor business (Peninsula Hardwood Mulch). The facility consists of an office/retail building near Lakeside Drive with associated outside storage of mulch and landscape materials in areas adjacent to the building and in the central portion of the property. The northern end of the property contains a closed private landfill that is under Department of Environmental Quality (DEQ) regulation for groundwater monitoring. The property is in compliance with applicable DEQ regulations. The tower site will be located outside of this area.

Access to the tower would be available via an existing 12-foot wide gravel driveway serving the existing mulch and landscape contractor's yard. A joint ingress/egress easement will be established for use by tower patrons at the time of site plan approval. The existing access drive / entrance will also serve a residential lot on the property's Lakeside Drive frontage if it is ever created (pursuant to the terms of a 1988 conditional rezoning approval).

The southern portion of the property is subject to the EMA Environmental Management Area overlay district, associated with a tributary of Quatermarsh Creek that traverses the southeast corner of the property. The Comprehensive Plan designates this area as Medium-Density Residential.

The property is subject to the ASM Airport Safety Management overlay district. The property is located within the area designated as horizontal surface for the Newport News/Williamsburg International Airport. This designation restricts any structure having a height greater than 196 feet above mean sea level. According to existing topography shown on SUP plan sheet CUP-2, the location of the tower base is at an elevation of 49.66 feet. Accordingly, based on pre-development topography, maximum tower height would be restricted to 146.34 feet, rather than the 150-foot height requested by the applicant. According to the applicant's engineer, there will be a minimal amount of grading needed for construction of the facility. A proposed approval condition addresses this restriction relevant to the ASM overlay district regulations.

Land uses bordering the lease site include the York Crossing townhouse development to the west and the Lakeside Forest and Prospect Park single-family residential subdivisions to the south. The portion of the subject parcel containing the tower lease area abuts common area for both subdivisions. The common area for the York Crossing development ranges from approximately 60 to 175 feet in width, much of which is currently used for boat and RV storage for residents of the development. The Prospect Park common area is approximately 190 feet in width, and contains a stormwater pond servicing the development.

Surrounding zoning is a mix of residential districts, including RMF (Residential Multi-family) and R20 (Medium Density Residential) to the west and southwest, R20 to the north, PD (Planned Development) and RC to the east and RR and R20 south of Lakeside Drive.

2. The applicant has indicated that existing PCS service in the Grafton/Dare area is currently limited to areas north of Chisman Creek and south of the Poquoson River in the Tabb area. Based on customer demand, expanded coverage is needed for customers between these areas on the east side of Route 17. Existing structures were considered, such as the radio tower on the Rose Brothers, Inc. property near the intersection of Oriana Road and Route 17 and the radio tower on the Hampton Roads Radio site on Route 17 south of Lakeside Drive, but no suitable sites were found that would provide required service to the noted areas. The applicant has therefore submitted this request for a new monopole. The applicant's proposed tower would be a co-location site with space for two additional wireless communications providers.
3. The Federal Aviation Administration (FAA) will analyze the proposed tower to ensure that it will not infringe on air traffic flight patterns. If the FAA requires a permit for the construction of the tower, the applicant will need to provide evidence of FAA approval prior to the County's final approval for construction of the tower. A condition to this effect is included as part of the approving resolution.
4. As a condition of approval, the applicant will be required to submit a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower will not result in a ground level exposure at any

point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.

5. Although the Telecommunications Act of 1996 did not preempt local zoning authority, localities are somewhat constrained in their ability to deny or delay requests for towers. Such decisions may be enjoined or overturned by the FCC or federal courts if the intent or the effect of the decision is to discriminate between types of communications service providers. They can also be overturned if the decision is not reached within a reasonable period of time, if the denial is unreasonable, or if the denial is based on public health concerns relating to radio frequency emissions. Additionally, the Act places an obligation upon localities to assist the telecommunications providers in finding a facility somewhere within the footprint (coverage area).

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at its regular meeting on June 11, 2003 and, subsequent to conducting a public hearing at which one person spoke other than the applicant, voted 6:0 (Barba absent) to recommend approval. This recommendation was subject to proposed conditions that included screening requirements, tower height limitation in accordance with the Airport Safety Management overlay district and conformance with federal and state safety requirements. The Commission added a condition clarifying signage permitted on the tower structure.

COUNTY ADMINISTRATOR RECOMMENDATION

Utilities Strategy 3.1 of the Comprehensive Plan discourages location of telecommunications towers in residential neighborhoods "unless there is no other practical option." The applicant has indicated that alternative locations were considered in establishing facilities to meet the need for expanded wireless coverage in the Grafton/Dare area. However, as there were no existing facilities available that satisfied coverage criteria, a new monopole facility at the proposed location was deemed necessary to meet customer demand for services. In cases where location of such facilities in residential areas is unavoidable, a balance between community aesthetic goals and the wireless industry requirements must be achieved. Utilities Strategy 3.5 further states that such structures "should blend into the surrounding environment when possible." The proposed tower is to be located in the immediate area of a commercial contractor use, namely, the existing mulch/landscape business. The tower's visibility will be reduced somewhat by its location near a wooded area.

Although such structures may not be appropriate elsewhere in the County's residential areas, I believe that the particular characteristics of the proposed tower site can afford the opportunity to expand telecommunications coverage without sacrificing aesthetic goals. Therefore, based on the considerations and conclusions as noted, I recommend that the Board approve this application. This may be accomplished through the adoption of proposed Resolution No. R03-119.

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Attachments

- Excerpts from Planning Commission minutes, June 11, 2003
- Zoning Map
- Sketch Plan
- Photo-simulations of Proposed Tower
- Resolution No. R03-119